

Notice of Allowability

Application No.

10/616,654

Examiner

Vy Q. Bui

Applicant(s)

ALVAREZ ET AL.

Art Unit

3734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/2/06.
2. ☒ The allowed claim(s) is/are 4-20.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 11/2003;11/2005
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue.

2. The application has been amended as follows:

Non-elected claims 1-3 without traverse have been canceled.

CLAIM 10:

- Line 2: before "throat", change "the" to -- a --.
- Line 12: after "outer", change "shaft" to -- housing --.
- Line 23: before "irrigating", change "the" to -- an --.
- Line 30: before "irrigating", change "an" to -- the --.
- Line 40: after "the", change "distal" to -- proximal --.

CLAIM 19:

- Line 12: after "outer", change "shaft" to -- housing --.

3. The following is an examiner's statement of reasons for allowance: the prior art of reference has failed to disclose or suggest a method of performing surgery on a surgical site within a dry passage way including positioning an endoscope in the surgical site, an elongated

Art Unit: 3734

cutting accessory having a distal end with a tissue working member, the cutting accessory defining a conduit, and especially causing an irrigation fluid flowing in the conduit and out to the distal end of the tissue working member in a spray to clean the distal end of the endoscope before suction of the fluid through the tissue working member s recited in independent claim 4.

The prior art of reference also has failed to disclose or suggest a method of performing surgery on a sinus or a nasal passageway or a throat including positioning an cutting accessory defining an outer housing, an elongate tubular moving shaft within the outer housing, and especially an irrigation solution flowing between the tubular shaft and the outer housing at a rate of 25mmI/min and at least 6% of the irrigation solution flows from the outer housing outlet opening to the surgical site as recited in independent claim 10.

The prior art of reference also has failed to disclose or suggest a method of performing surgery on a sinus or a nasal passageway or a throat including positioning an cutting accessory defining an outer housing, an elongate tubular moving shaft within the outer housing, and especially a mixture of a topical medicine and irrigation solution flowing between the tubular shaft and the outer housing to discharge at the surgical site and exit through the moving shaft as recited in independent claim 19.

Claims 4-20 are allowed.


Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vy Q. Bui whose telephone number is 571-272-4692. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on 571-272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



12/25/2006

Vy Q. Bui
Primary Examiner
Art Unit 3734